

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1936)  
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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seded, modified, or amended so far as necessary to give effect to the provisions of this act. (Act Apr. 18, 1935, c. 213, §9.)

**4397-20. Provisions severable.**—If any section, part, or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions hereof. (Act Apr. 18, 1935, c. 213, §10.)

**4397-21. Appropriation for education of certain children.**—The sum appropriated under the provisions of this act shall be used for the sole purpose of providing for matriculation fees, board and room rent and books and supplies for the use and benefit of the children not under 16 and not over 22 years of age and who have for two years had their domicile in the state of Minnesota, of those who were killed in action or died from other causes during the World War, from April 6, 1917, to July 2, 1921, while serving in the Army, Navy or Marine Corps of the United States or as a result of such service; which children are attending or may attend any educational or training institution of a secondary or college grade located within the state of Minnesota and approved by the state board of education. Said children shall be admitted to state institutions of secondary or college grade free of tuition. (Act Apr. 29, 1935, c. 350, §1.)

**4397-22. Monies to be paid to educational institutions.**—The amounts that may be or may become due to any educational or training institution, not in excess of the amount specified in section 3 hereof, shall be payable to such institution from the fund hereby created on vouchers approved by the state soldiers welfare director. Said director shall determine the eligibility of the children who may make application for the benefits provided for in this act; satisfy himself of the attendance of such children at any such institution and of the accuracy of the charge or charges submitted to said director by the authorities of any such institution, on account of the attendance thereof of any such children. (Act Apr. 29, 1935, c. 350, §2.)

**4397-23. Appropriation.**—The sum of \$4,000.00, or so much thereof as may be necessary, is hereby appropriated for the fiscal year ending June 30, 1936, and annually thereafter until 1942, for carrying out the provisions of this act: Provided, that not more than \$200.00 shall be paid under said provisions for any one child for any one year. (Act Apr. 29, 1935, c. 350, §3.)

**4397-24. Unexpended balances reappropriated.**—Any unexpended balance remaining at the end of any fiscal year shall be and remain available for expenditure until June 30, 1942, and thereupon all sums in said fund remaining unexpended shall revert to the state treasury. (Act Apr. 29, 1935, c. 350, §4.)

## CHAPTER 25

### Board of Control and Charities Under Its Exclusive Management

#### THE BOARD

**4400. Membership of board of control.**—The State Board of Control shall consist of three members at least one of whom shall be a woman, appointed by the Governor, with the consent of the Senate, each for the term of six years and until their successors qualify. Not more than two (2) members shall belong to the same political party. Vacancies shall be filled by like appointment for the unexpired terms. On the second Monday in April, 1931, and biennially thereafter, the board shall elect from its membership a chairman. A vacancy in the office of chairman shall be filled by like election for the unexpired term.

The Governor may remove any member for malfeasance or non-feasance in office or for any cause which renders him incapable or unfit to discharge his official duties. (R. L. '05, §1858; G. S. '13, §4001; '21, c. 381, §1; '23, c. 275, §1; Mar. 24, 1931, c. 84.)

**4401. Institutions under exclusive control of State board of control.**

State board of control may prohibit the importation of beer into the quarters or homes furnished employes of state institutions under its jurisdiction, and also into the grounds of such institutions. Op. Atty. Gen., Apr. 18, 1933.

State board of control may prohibit sale of beer in homes furnished employes of state institutions on state land. Op. Atty. Gen., Apr. 18, 1933.

**4401-1. Definitions.**—As used in this Act the term "Board" shall mean the State Board of Control; the term "Municipality" shall mean any county, town, village, borough or city, however organized, charged by law with liability for the support and/or relief of poor persons having a settlement therein; the term "governing body" shall mean the county board, the town board, the village, borough or city council, if any, otherwise the corresponding chief governing body of any such county, town, village, borough or city, as the case may be; the words "poor persons" shall mean such persons for whose support and/or relief a legal liability is imposed under Mason's Minnesota Statutes of 1927, Chapter 15; the term "work relief" shall mean support and/or relief in wages or other compensation, paid for in cash or in kind; the

words "direct relief" shall mean relief to poor persons in the form of food, clothing, shelter, medical care and supplies, and other necessities of life. (Act Mar. 16, 1933, c. 89, §1.)

The state may loan to a county caring for its poor under the "county system" funds received from the Reconstruction Finance Corporation under par. C of Title 1 of the Emergency Relief and Construction Act. Op. Atty. Gen., Apr. 5, 1933.

**4401-2. Acts approved and validated.**—The action of the Governor of the state in securing funds from the Reconstruction Finance Corporation for relief purposes under the Act of Congress known as the "Emergency Relief and Construction Act of 1932" is hereby approved. The governor's action in designating the State Board of Control to administer said funds and the administration thereof by the Board is hereby approved. (Act Mar. 16, 1933, c. 89, §2.)

**4401-3. Governor may apply for relief funds.**—The governor is authorized to continue negotiations for and secure funds from the Reconstruction Finance Corporation for relief purposes under said "Emergency Relief and Construction Act of 1932", upon application of the governing body of any municipality of the state; provided, that such applications shall specify the amount desired for relief purposes, the nature of the relief contemplated and have endorsed thereon the approval of the Board. It shall be the duty of the Board before approving any such application to investigate the relief needs of the municipality making the same and satisfy itself that the amount specified in the application is needed for such purpose. (Act Mar. 16, 1933, c. 89, §3.)

**4401-4. State Board of Control to be state welfare body.**—The State Board of Control is hereby designated as the State Welfare body responsible for administering such support or relief of the poor and such direct relief or work relief in aid to destitute families and/or poor persons as may be carried on in behalf of the state; and said Board shall, under such rules and regulations as it may provide, have control of, and shall administer, all funds available for such purposes from the state or federal government. The Board shall also administer, under the direction of

the governor, all funds available for such purposes from the federal government under the terms of any federal act requiring the administration thereof by, or under the direction of, the governor. In the exercise of its powers and the performance of its duties under this Act, the Board may employ, discharge and fix the compensation of such clerical, managerial and/or other assistants and incur and pay such other administrative expenses as it may deem necessary. The sum of \$15,000 is hereby appropriated for the fiscal year ending June 30, 1933, and the further sum of \$18,000 is hereby appropriated for each of the fiscal years ending June 30, 1934, and June 30, 1935, to the Board of Control for the use of said Board in carrying out the provisions of this Act all of said moneys to be expended under supervision of the Commission of Administration and Finance as provided by Chapter 426, Laws of 1925. The Board shall not during any of said fiscal years pay and/or incur administrative expenses in excess of the amount hereby appropriated for any of said years, except that any unexpended balance of the amounts herein appropriated for the fiscal years ending June 30, 1933, and June 30, 1934, are hereby reappropriated and made available for the fiscal years ending June 30, 1934, and June 30, 1935, respectively. (Act Mar. 16, 1933, c. 89, §4.)

Op. Atty. Gen. (107b-1), Aug. 11, 1934; note under §4401-13.

Responsibility for administration of fund appropriated by executive council for relief of disabled veterans and their families rest with state board of control and not state soldiers' home board. Op. Atty. Gen., Oct. 6, 1933.

State board of control need not advertise for bids in entering into contracts with processors of cattle from drought-stricken areas of state. Op. Atty. Gen. (707a-13), July 13, 1934.

Obligation to administer poor relief is absolute and outweighs statutory limitations as to expenditure of funds and creation of public debt. Op. Atty. Gen. (3390-5), Aug. 7, 1934.

It was not duty of state board of control to approve disbursements of money turned over direct to other bodies made or incurred prior to its knowledge thereof, but may assume responsibility of approving such bills. Op. Atty. Gen. (88a-24), Feb. 11, 1935.

**4401-5. State Treasurer to handle moneys.**—Any moneys from any source available for relief purposes under the provisions of this Act, shall be kept and deposited by the state treasurer in a separate fund hereby designated as "relief fund" and secured in the same manner as other state funds and shall be disbursed upon warrants in the same manner as other state funds except that such warrants shall be countersigned by a member of the Board or some other person thereunto duly authorized by resolution thereof. (Act Mar. 16, 1933, c. 89, §5.)

**4401-6. Application.**—Nothing in this Act shall be interpreted as enlarging the responsibility for relief as now imposed by the laws of Minnesota. (Act Mar. 16, 1933, c. 89, §6.)

**4401-7. Inconsistent acts suspended.**—All acts and parts of Acts so far as the same are inconsistent with this Act are hereby suspended so long only as this Act remains in force and effect. (Act Mar. 16, 1933, c. 89, §7.)

**4401-8. Effective until June 30, 1935.**—This Act shall be in force and effect only until June 30, 1935. (Act Mar. 16, 1933, c. 89, §8.)

**4401-10. Definitions.**—The term "Council" as used in this Act shall refer to the State Executive Council.

The term "Board" as used in this Act shall refer to the State Board of Control acting as the State welfare body as provided in Chapter 89 of the Session Laws of 1933.

The terms "intoxicating liquor" shall include and mean any liquid potable as a beverage containing more than 3.2% alcohol by weight.

The term "beer" shall include any malt liquor containing 3.2% of alcohol or less by weight. (Act Jan. 9, 1934, Ex. Ses., c. 67, §1.)

The following preamble follows the enacting clause:

Whereas, conditions of intense distress throughout the state make imperative the giving of direct relief, work relief, and re-employment on a vast scale, and

Whereas, in the providing of work relief, and employment projects can be undertaken to promote the conservation of the various natural resources of the state and of the health, safety and general welfare of its people, and

Whereas, in the case of a number of important projects, federal funds will be provided only in case the state provides the land needed for such projects or provides part of the funds needed for such projects, and

Whereas, in various parts of the state, in periods of drought, cities and villages and rural communities relying upon stream flow for their water supply, have an insufficient supply of water by reason of the drying up of streams, and

Whereas, at times of high water, many areas within this state are menaced by destructive floods, and

Whereas, the public health, public safety and general welfare are seriously menaced by these conditions, and

Whereas, a general emergency exists affecting the public health, public safety and general welfare of the people of the state:

This act is constitutional. *Moses v. O.*, 192M173, 255 NW617.

**4401-11. Direct relief, veteran relief, work and employment relief—projects to be undertaken—agreement with federal government.**—The Council is authorized to extend direct relief, veteran relief, work relief, and employment to the people of the state in such manner and to such an extent as to it may seem necessary and proper, subject to the limitations herein provided. In extending work relief the Council may undertake projects involving flood control, water supply, water diversion, control of erosion, reforestation and afforestation and any other project which will aid in the conservation and development of the natural resources of the state and in the promotion and conservation of the public health, public safety and general welfare of the people of the state. The Council is authorized to enter any appropriate agreement with the United States Government or any agency thereof necessary to carry out the purposes of this Act. At least \$750,000.00 of the amount herein appropriated for direct relief shall be allocated to the relief of veterans of all wars and their families who are residents of the State of Minnesota.

The Council is authorized to acquire by gift, purchase, condemnation proceedings under Mason's Minnesota Statutes of 1927, Chapter 41 as amended, or otherwise, any land needed to carry on the work relief and employment herein provided for and, in appropriate cases, to convey land to the United States needed for projects financed in whole or in part by the United States. (Act Jan. 9, 1934, Ex. Ses., c. 67, §2.)

After authorization by executive council, state may acquire lands by eminent domain proceedings and convey them to the United States. Op. Atty. Gen. (817f), Nov. 22, 1934.

Relief funds may be expended in payment of premiums on fidelity bonds, paymaster robbery insurance, but not for premiums on public liability and property damage insurance. Op. Atty. Gen. (400b), Jan. 15, 1935.

Cost of condemnation proceeding, including reporting of deeds, is payable from appropriations by executive council. Op. Atty. Gen. (928c-14), Mar. 27, 1935.

**4401-12. Appropriation to board of control as state welfare body.**—The Council, within the limits of the appropriation provided herein, is authorized to appropriate to the Board, from time to time as needed, such sums of money as may be necessary, to provide necessary direct relief, work relief and employment to needy, destitute, and disabled persons within the State of Minnesota. All sums appropriated for such purposes shall be appropriated to the Board and said Board shall, under such rules and regulations as it may provide, have control of, and shall administer all funds so appropriated, and no money not so appropriated shall be expended under the authority of this Act. (Act Jan. 9, 1934, Ex. Ses., c. 67, §3.)

Op. Atty. Gen. (707a-13), July 13, 1934; note under 4401-4.

The words "needy, destitute and disabled persons" as used in this act mean substantially the same as "poor persons" as defined in §3157. *Moses v. O.*, 192M173, 255 NW617.

**4401-13. Cooperation with federal government and state agencies—temporary housing—supplies.**—The Board is authorized to cooperate with the United States Government and any duly constituted agency thereof, and any duly constituted state agency in extending direct relief, work relief and employment within the state, and to expend moneys therefor from funds appropriated to the Board by the Council.

The Board is authorized to construct all buildings needed for temporary housing of persons employed and equipment used, under authority of this Act, and to purchase such supplies and equipment as may be needed to carry out the provisions of this Act from funds appropriated by the Council. The Board is authorized to dispose of supplies and equipment when the need therefor shall no longer exist. (Act Jan. 9, 1934, Ex. Ses., c. 67, §4.)

Op. Atty. Gen. (3390-5), Aug. 7, 1934; note under § 4401-4.)

County board may pay incidental expenses in co-operation with state and federal government in connection with direct relief, work relief, drouth relief, etc. Op. Atty. Gen. (107b-1), Aug. 11, 1934.

**4401-14. Liquor tax money appropriated—allocation of money for direct relief and for federal projects.**—To provide the funds necessary to carry out the provisions of this Act there is hereby appropriated to the Council all money that shall come into the state treasury from all state taxes on intoxicating liquor and beer within two years after an act taxing intoxicating liquor and beer shall go into effect; provided, however, that that portion of such money which shall be needed to pay the expense of collecting said taxes, and the cost of the administration of any State Liquor Control Law shall not be included in this appropriation; and provided, that such appropriation shall not exceed \$2,500,000.00 for the purpose of providing necessary direct relief, drought relief, veteran relief and work and re-employment relief to the needy and destitute and disabled persons, and an additional \$2,500,000.00 for such purposes as may be necessary to meet the requirements of the United States government made as a condition to carrying on by such United States government of projects financed in whole or in part by the United States, involving flood control, water supply, water diversion, control of erosion, reforestation and afforestation, and to meet the requirements of the United States government as a condition to extending by such government of direct relief, work relief and re-employment within the state, and provided further that in the event that the income from said taxes during said period of two years shall not be sufficient to pay in full the certificates of indebtedness herein authorized to be issued, then this appropriation shall be and the same is hereby continued until such certificates are paid in full. (Act Jan. 9, 1934, Ex. Ses., c. 67, §5.)

Liquor control commission has power to expend money from sale of tax stamps to administer various acts but cannot use revenue obtained by issuance of licenses, permits and sale of labels. Op. Atty. Gen., Feb. 20, 1934.  
\$2,500,000 made available to meet requirements of United States Government as a condition to extending relief. Op. Atty. Gen. (928c-7), Apr. 13, 1934.

**4401-15. Certificates of indebtedness in anticipation of taxes.**—Pending the collection of said taxes the Council is hereby authorized and directed to issue and sell, as funds are needed to carry out the provisions of this Act, certificates of indebtedness to be known as Minnesota Public Relief Certificates of Indebtedness at not less than par value thereof, earning interest after the issuance and sale thereof, payable annually, at a rate not greater than five per cent per annum, in such form as said Council may determine, which certificates shall become due within not more than two years from the date of issue. The interest on said certificates of indebtedness and the principal thereof shall be paid from the income from a tax on intoxicating liquor and from a tax on beer, and said tax shall not be repealed by any Act which shall become operative until said certificates are paid in full. The aggregate amount of certificates of indebtedness

to be so issued shall not exceed \$5,000,000.00. All money that shall be derived from the sale of said certificates of indebtedness shall be paid into the state treasury and is hereby appropriated to the Council. The Council shall pay said certificates of indebtedness and the interest thereon at maturity from any appropriation made by this Act. (Act Jan. 9, 1934, Ex. Ses., c. 67, §6.)

Act appropriates the designated taxes in an amount sufficient to cover \$5,000,000 par value of certificates plus the interest which may accrue thereon. Moses v. O., 192M173, 255NW617.

An issue of certificates of indebtedness in excess of \$250,000 would be invalid if full faith and credit of state were pledged for payment but if holder of certificates merely has right to demand proceeds of a certain specific tax, the full faith and credit of the state is not pledged. Op. Atty. Gen., Jan. 5, 1934.

**4401-16. Expenditures limited to appropriation.**—The total expenditures by the Council under this Act for all purposes shall not exceed \$5,000,000.00, including expenditures for the retirement of the certificates of indebtedness herein provided for and interest thereon. (Act Jan. 9, 1934, Ex. Ses., c. 67, §7.)

**4401-17. Certificates of indebtedness may be deposited as security by depositaries.**—Such certificates of indebtedness herein provided for shall be eligible for deposit with the Treasurer of Minnesota by any bank as collateral security for any funds deposited in such bank by the State of Minnesota or any agency thereof. (Act Jan. 9, 1934, Ex. Ses., c. 67, §8.)

**4401-18. State welfare body to administer relief.**—The Board, acting as the State Welfare Body shall administer the direct relief and the work relief herein provided for, in accordance with the provisions of Chapter 89 of the Session Laws of 1933. [§§4401-1 to 4401-8]. (Act Jan. 9, 1934, Ex. Ses., c. 67, §9.)

**4401-19. Separability clause.**—The various provisions of this Act shall be severable. Should any provision of this Act be held invalid by any court of competent jurisdiction the remaining portions of this Act shall remain in full force and effect. (Act Jan. 9, 1934, Ex. Ses., c. 67, §10.)

**4401-20. How long operative.**—This Act shall remain in force and effect from and after its passage, until July 1st, 1935, provided, however, that this section shall not operate to terminate the appropriation made in section 5 hereof [§4401-14] before all certificates of indebtedness issued under authority of section 6 hereof [§4401-15] have been paid in full. (Act Jan. 9, 1934, Ex. Ses., c. 67, §11.)

Money appropriated by this act cannot be disbursed after July 1, 1935. Op. Atty. Gen. (928c-14), May 14, 1935.

**4413. Uniform accounts and records—Annual statement.**

Affidavits and letters executed by various persons submitted in support of claim for services constituted part of official records of department and should be retained. Op. Atty. Gen., Mar. 8, 1934.

**4422-2. Same—Insane persons in state hospitals—Consent to operation.**

Section is to be strictly construed and inmate of St. Peter State Hospital could not be sterilized, even with consent, where she had not been there for six months but had spent 11 months in Rochester State Hospital. Op. Atty. Gen., Jan. 3, 1934.

**4429. Invalidity of part not to affect all.**

State board of control need not advertise for bids in entering into contracts with processors of cattle from drought-stricken areas of state. Op. Atty. Gen. (707a-13), July 13, 1934.

**4431. Stationery, furniture, supplies, etc.**

Federal process taxes apply on commodities purchased by board for state institutions. Op. Atty. Gen., Aug. 7, 1933.

Specifications for coal to be purchased may require that successful contractor observe prevailing wage scale, and on his failure to do so that state may cancel contract or require contractor to reduce cost of coal. Op. Atty. Gen. (270m-4), May 8, 1934.

**4434, 4435 [Repealed].**

Repealed by Act Feb. 9, 1933, c. 17.

**4435-1, 4435-2 [Repealed].**

Repealed by Act Feb. 9, 1933, c. 18.

**4436 [Repealed].**

Repealed by Act Feb. 9, 1933, c. 17.

**4439. Money of inmates.**

A pass book of an inmate is not "money" within section. Op. Atty. Gen., May 4, 1933.

**4440. Unclaimed money of inmates of state institutions.**

Check is not money within meaning of section. Op. Atty. Gen. (349h), Jan. 5, 1935.

**ILLEGITIMATE CHILDREN****4457. County child welfare boards—Appointment of agents.**

A welfare worker appearing in juvenile court as part of his duties as such worker is not entitled to witness fees. Op. Atty. Gen., Nov. 24, 1933.

**4460. Traveling expenses.**—The traveling and other necessary expense of the several members of the child welfare board, while acting officially as members of such board, and of the executive agents while exclusively employed in the business of the board, shall be paid, so far as approved by the county board, out of the general revenue fund of the county in the same manner as other claims against the county. If a member or executive agent of the child welfare board uses his own automobile or other conveyance owned by him, he may be allowed reasonable compensation therefor at a rate of not more than seven cents per mile for each mile necessarily traveled in such automobile or other conveyance in the performance of his official duties. ('17, c. 194, §7; Apr. 20, 1931, c. 242.)

The cost of securing a surety bond for the treasurer of a county child welfare board may be paid by the county, even though such treasurer happens to be a public officer, such as superintendent of schools, and receives a salary in connection with such office. Op. Atty. Gen., July 3, 1931.

**SOCIAL SERVICE**

**4467-1. State Board of Control to take possession of property in certain cases.**—In any case where the guardianship of the person of any defective, illegitimate, dependent, neglected or delinquent child, or person feeble-minded, has been committed to the State Board of Control, and such person's estate shall consist only of personal property not exceeding in value the sum of one thousand dollars, and there shall be no guardian of the estate of such person, the probate court having jurisdiction of such estate may, after three weeks' published notice of the hearing, and upon notice to the State Board of Control, authorize the State Board of Control to take possession of the property in such estate, liquidate the same, and hold the proceeds thereof in trust for such ward, to be invested, expended and accounted for as provided by Sections 4462, 4463, 4464, 4465, 4466 and 4467, General Statutes, 1923, and acts amendatory thereof. (Act Mar. 9, 1929, c. 55.)

**4467-2. Board of Control to make reports.**—The state board of control shall annually or at such other times as the probate court may direct file with the court an account of moneys received and disbursed by it for such ward. Upon petition of the ward or of any person interested in such estate and upon notice to the state board of control the probate court may terminate such trust and require final accounting thereof. (Act Mar. 9, 1929, c. 55, §2.)

**4469. Expense of attendance.**

Judge of probate attending annual conference is entitled to actual expenses, and if he uses his own car, he is entitled to reimbursement for gas and oil, and if he travels by train, he is entitled to expenses actually incurred, including railroad fare. Op. Atty. Gen., Oct. 14, 1932.

**STATE TRAINING SCHOOL****4472. Duties of board—Girls—Discharge.**

Probate court has no jurisdiction to commit delinquent girls to the Home School for Girls, its jurisdiction being limited to the appointment of the state board of control as guardian. Op. Atty. Gen., Dec. 23, 1931.

**MINNESOTA HOME SCHOOL FOR GIRLS****4478. School created—Commitment—Laws applicable.**

Probate court has no jurisdiction to commit delinquent girls to the Home School for Girls, its jurisdiction being limited to the appointment of the state board of control as guardian. Op. Atty. Gen., Dec. 23, 1931.

**4484, 4485. [Repealed].**

Repealed by Laws 1929, c. 273. See, also, §5345, as amended by Laws 1929, c. 272.

**4486, 4488. [Repealed].**

Laws 1929, c. 274, repeals "sections 6, 7, 8, and 9, Chapter 232, General Laws of Minnesota for 1907, as amended by section 6 in section 1, chapter 3, General Laws of Minnesota for 1911."

**SCHOOL FOR FEEBLE-MINDED, ETC.**

**4500. Who may be admitted—expenses.**—All feeble-minded persons, resident of the state, duly committed to the guardianship of the state board of control, who, in the opinion of said board, are in need of care and training at some state institution for the feeble-minded may be admitted to such an institution, and epileptic persons who are not feeble-minded may on their own application be admitted to the colony for epileptics, under such conditions and regulations as said board shall prescribe. The person legally responsible for the support of any person so admitted, shall pay annually to the superintendent of the institution of which such person is an inmate a sum not exceeding forty dollars, to be fixed by the board, but if the person so liable fails or refuses to pay such sum, of which non-payment the certificate of the superintendent of such institution shall be prima facie evidence, it is hereby made a charge upon the county in which the person so admitted has a legal settlement for the purpose of poor relief if he has a settlement within the state and, if not, upon the county from which he was admitted, and upon the presentation of a certificate of the superintendent of said institution certified to by the secretary of the board of control to the auditor of said county, that such person is a regular and proper inmate of such institution and of the sum so fixed by the board as a condition of admission, said auditor shall immediately remit to the superintendent of said institution the sum so fixed, and a like amount annually thereafter, so long as such person remains an inmate of said institution, which sums may be recovered by the county from any person of sufficient ability legally responsible for the support of such inmate; said superintendent shall transmit the funds so received to the state treasurer to be credited to the proper funds of said institution as required by law in the case of other current receipts, and said board shall have authority to reimburse pro rata the persons and counties so paying respectively from the general support fund of the institution in case of the death or removal of such person so admitted, before the termination of the annual period for which such payment is made. Any crippled or deformed child who is helpless and who cannot be benefited by treatment at the state hospital for crippled and deformed children, or any child who is physically helpless from any chronic disease of the nervous system or any child or adult suffering from such or other incurable chronic invalidism, may be admitted to said department for incurables in said institution in the discretion of and under such conditions as the board of control shall determine: Provided, however, that this section shall not apply to those who are helpless from insanity or senile dementia, or whose presence shall, in the opinion of the superintendent of said institution be incompatible with the general purposes of the institution, as specified above. The sum to be paid annually for each of such persons shall be \$150 instead of \$40 as specified above. The sum to be paid annually for each of such persons shall be \$150 instead of \$40 as hereinbefore specified to be paid in other cases, which amount shall be paid in the manner in this section

hereinbefore prescribed. (R. L. '05, §1914; '09, c. 80, §1; G. S. '13, §4079; Mar. 19, 1931, c. 74, §1.)

A bond given by the grandfather to secure payment to the school for feeble minded for maintenance of his grandchild, held binding on him, and he is not entitled to discharge therefrom, though no bond is required by statute, he being the nearest relative of the child who is financially able to pay for its maintenance under §3157. Op. Atty. Gen., July 16, 1930.

Laws 1931, c. 74, does not apply to feebleminded persons voluntarily admitted to state institutions for care and treatment prior to the enactment of Laws 1917, c. 344. Op. Atty. Gen., Sept. 11, 1931.

Place of residence of feeble-minded person, at time of commitment to institution, is controlling upon liability of county for care at institution, and it is immaterial that parents of such person, after commitment, and while feeble-minded person was on waiting list, moved to another county and gained settlement there. Op. Atty. Gen., Apr. 13, 1932.

In determining residence of feeble-minded person for purpose of determining liability of county, last county in which such person resided for entire year must be considered residence. Op. Atty. Gen. (679d), June 8, 1934.

**4502. Abduction or enticing away a gross misdemeanor in certain cases.**—Every person who shall abduct, entice or carry away from a state institution for the feeble-minded or colony for epileptics any inmate thereof, who has not been legally discharged therefrom, shall be guilty of a felony and punished by a fine of not to exceed one thousand dollars (\$1,000) or imprisonment in the state prison or state reformatory not to exceed three years, or both, in the discretion of the court; any and every person who shall abduct, entice or carry away from any place other than a state institution, a person duly committed as feeble-minded to the guardianship of the state board of control with the intention of wrongfully removing such person from the direct custody of the state board of control, such person known by him to be under the supervision of the state board of control or its agents, shall be guilty of a gross misdemeanor. ('23, c. 365, §1; Apr. 18, 1929, c. 231, §1.)

**4503. Sheriff to transport feeble-minded and epileptic persons.**—It shall be the duty of the sheriff of any county, upon the request of the state board of control, to take charge of and transport any feeble-minded or any epileptic person who has been committed by the probate court of his county to the care and custody of the state board of control to such institution as may be designated by said board, and there deliver such feeble-minded or epileptic person to the superintendent of said institution. ('21, c. 76, §1; Jan. 21, 1936, Ex. Ses., c. 57, §1.)

**4504. Sheriff to receive expense only.**—In counties where the sheriff receives a salary in full compensation for official services performed by him for his county, the sheriff shall receive no additional compensation for services performed by him under the provisions of this act, but he shall be reimbursed by the county for the necessary and reasonable expenses incurred by him in taking charge of and transporting such feeble-minded or epileptic person to such institution as aforesaid and the subsistence of himself and such feeble-minded or epileptic person while en route.

In counties where the sheriff does not receive a salary as aforesaid he shall be paid three (3) dollars a day for the time actually and necessarily employed in performance of the service, together with expenses as above specified.

In case the feeble-minded or epileptic person shall be a female, the sheriff shall appoint some suitable woman to act in his place and stead, and in such case the person so appointed shall have and exercise all the powers vested in the sheriff and shall be paid the sum of three (3) dollars per day for the time necessarily and actually employed in the performance of such service, together with reimbursement for expenses as hereinbefore provided for. ('21, c. 76, §1; Jan. 21, 1936, Ex. Ses., c. 57, §2.)

A sheriff transporting a feeble-minded person to a state institution is entitled to reimbursement for his actual expenses in transporting the person mentioned, and where he uses his own car the expense may exceed seven cents per mile while the feeble-minded person is in the car. Op. Atty. Gen., June 15, 1931.

CENSUS OF FEEBLE-MINDED

**4507-1. Continual census of feeble minded in the state required.**—The state board of control jointly with the state board of education are hereby authorized and required to prepare and maintain a continuous census of the feeble-minded of the state and to make such recommendations as are deemed advisable to schools of the state for their education, and to cause petitions to be filed in the proper court for commitment of any person the board of control deems should be so committed. The board of control is hereby authorized to file such petitions whenever such petitions seem advisable. (Act Apr. 29, 1935, c. 364, §1.)

**4507-2. Access to records.**—All school authorities of the state are hereby required to give access to their records and to furnish information to the state board of control or state department of education regarding the name, age, residence and antecedents of all children within their control believed to be feeble-minded, and to give access to all children within their control for the purpose of examination. (Act Apr. 29, 1935, c. 364, §2.)

**4507-3. Must report to state board of control.**—All doctors, nurses, hospitals, child welfare boards, public health officers, and public officers, boards or commissions within the state are hereby requested to report to the state board of control, the name, age and residence of all persons believed by them to be feeble-minded, and it shall be the duty of all child welfare boards to furnish the state board of control any information it may request relative to name, age, residence, and antecedents of any person believed to be feeble-minded. (Act Apr. 29, 1935, c. 364, §3.)

**4507-4. To report to legislature.**—The board of control and the state board of education shall separately in their biennial reports to the governor and legislature include a summary of their work and their respective recommendations. (Act Apr. 29, 1935, c. 364, §4.)

HOSPITALS AND ASYLUMS FOR THE INSANE

**4511. Patients, how admitted—Discharge, etc.**

Unless prisoner in state penitentiary is afflicted or believes himself to be afflicted with mental disease, he cannot be transferred to state hospital at St. Peter for medical treatment. Op. Atty. Gen., Feb. 14, 1933.

**4523. Patients may be paroled in certain cases.**—The superintendent, whenever he deems it advisable that a patient should return home or remain away from the institution on trial, may allow him to be absent on parole for a period not exceeding one year. The order of commitment shall remain in force until he is legally discharged, and he may be recalled at any time. (R. L. '05, §1922; G. S. '13, §4097; Mar. 18, 1931, c. 73.)

**4524. Discharge of patients.**

Laws 1931, c. 364, establishes the exclusive statutory procedure for the release of a patient who has been committed as the result of his acquittal of a criminal charge on the ground of insanity. It is for the benefit of those committed before, as well as of those committed after, the enactment of the law. State v. District Court, 185M 396, 241NW39. See Dun. Dig. 4523a.

Probate court has power to hear and determine applications for restoration to capacity by patients in insane hospitals. State v. O'Brien, 186M432, 243NW434. See Dun. Dig. 4528.

**4528. Asylum for dangerous insane.**

A person committed under the law relating to dangerous insane should have gone to the asylum for dangerous insane, and not to Fergus Falls State Hospital. Op. Atty. Gen., Jan. 27, 1932.

**4530. Allowances.**

Estate of convict inmate of insane hospital is not liable for his maintenance. Op. Atty. Gen., June 15, 1933.

**4532. Terms of sentence.**

Time runs on jail sentence while in asylum. 176M572, 224NW156.

## STATE SANATORIUM FOR CONSUMPTIVES

**4543. Advisory commission.**

County with its own hospital for consumptives could nevertheless expend money for one in state sanitarium. Op. Atty. Gen., Feb. 15, 1934.

**4544. Buildings—Superintendent.**

Gasoline used in connection with operation of state sanatorium for consumptives is exempt from federal excise tax of gasoline. Op. Atty. Gen. (324E-1), Nov. 27, 1934.

**4545. Persons admitted to—Powers of county sanatorium commission.**

Dental work may or may not be a necessary part of treatment for tuberculosis, and cost thereof would be a proper charge against the county if physician certified that it was a part of the treatment for tuberculosis; otherwise the cost must be taken care of as poor relief by the town or county liable for such poor relief. Op. Atty. Gen., Sept. 1, 1931.

County, even though operating under township system of poor relief, is liable for cost of care of patients at state sanatorium. Op. Atty. Gen., July 31, 1933.

Whether or not person may be classified as afflicted with pulmonary tuberculosis is question of fact. Op. Atty. Gen., Sept. 26, 1933.

Where one sent to sanatorium at Walker from Hennepin county was discharged and immediately secured work at such sanatorium and later had a breakdown and again made application for hospitalization whether his residence was Cass county or Hennepin county was fact to be determined by proper officer or board. Op. Atty. Gen., Oct. 27, 1933.

Where a person is admitted to state sanatorium on request of county board, charges for keeping such person are to be paid by county even though operating under township system of poor relief. Op. Atty. Gen., Dec. 2, 1933.

Expenses of tubercular patient as sanatorium are to be paid by county only when patient or next of kin are unable to pay same. Op. Atty. Gen. (556a-2), Mar. 21, 1935.

**4545-1. Treatment in state or county sanatorium.**

Care of one with original residence in another state by insurance company in this state did not change residence to this state, and foreign state should be obligated to care for him on his becoming subject of tuberculosis. Op. Atty. Gen., May 15, 1933.

## MATERNITY HOSPITALS

**4554. Physician or midwife to make report.**

Maternity hospital had no authority to pay physician out of funds deposited with it for safekeeping by patient without order of patient. Op. Atty. Gen. (88a-27(f)), Aug. 10, 1934.

## CUSTODY OF CHILDREN

**4561. Surrender of parental rights.**

Custody of children given to maternal grandmother as against father. 175M518, 221NW868.

Welfare of child is to be considered, and where mother is dead, father, if fit person, has preferential right to custody, but in this case custody of female child awarded to maternal grandmother. 179M472, 229NW582.

The person who receives a child for permanent care without compliance with this act is guilty of an offense. Op. Atty. Gen., May 9, 1931.

**4562. Notification of state board of control.—**

Whenever any person shall place a child in a private home, not licensed as an infants' home, for the purpose of providing the child with a permanent home, the person responsible for the placing of the child shall immediately notify the state board of control, giving the name and address of the child, the name of the person with whom the child has been placed, with such other information regarding the child and his foster home as may be required by the state board of control. This section shall not apply to any private child welfare agency approved by the state board of control to select persons to care for children as provided in Section 4569. ('19, Ex. Ses., c. 51, §3; Apr. 5, 1935, c. 112, §1.)

Intent at time of placement of child is essential factor to be considered in determining guilt. Op. Atty. Gen., May 9, 1931.

"Any person" covers any party having actual custody of the child or the lawful right to such custody. Op. Atty. Gen., May 9, 1931.

**4563. Visitation of children.—**

Upon the receipt of the notice provided for in the preceding section or at any time thereafter, the state board of control may cause the child and the home in which the child has been placed to be visited by its agents and such in-

vestigation to be made as shall satisfy the board of control that the home is a suitable one for the child. The state board of control may continue to visit and supervise the case of such child the same as though the child were placed out by the state public school. Whenever satisfied that a child has been placed in an unsuitable home, the board may order its transfer. If said order is not obeyed within 30 days, or such shorter time as may be named in the order, the board itself shall take charge of and provide for such child. ('19, Ex. Ses., c. 51, §4; Apr. 5, 1935, c. 112, §2.)

**4567. Supervision by board of control.**

A physician who arranges in a single instance to place a child in a home for permanent care is not within this section. Op. Atty. Gen., May 9, 1931.

**4569. What are children's homes—Application.—**

Any person who receives for care or treatment or has in his custody at any one time one or more infants under the age of fourteen years, unattended by a parent or guardian, for the purpose of providing such child or children with food, care and lodging, except infants related to him by blood or marriage, shall be deemed to maintain an infants' home.

The word "person" where used in this act shall include individuals, partnerships, voluntary associations and corporations; provided, however, that this act shall not be construed to relate to any institution under the management of the state board of control or to its officers or agents, nor to any person who has received for care alone, children from not more than one family during any period of 30 days.

This act shall not apply to any person who receives for care, only children in the care or custody of a private child welfare agency, if such agency is approved by the state board of control to select persons to care for such children. The state board of control is hereby empowered to grant such approvals to such private welfare agencies as in its judgment will select only persons to care for such children who would otherwise be eligible to receive and hold a license under this act, and upon its own motion or after investigations occasioned by complaint of any citizen to the Board it may revoke such approvals when it believes such revocation to be for the public good. ('19, Ex. Ses., c. 52, §1; Apr. 5, 1935, c. 112, §3.)

## MINNESOTA GENERAL HOSPITAL

**4578. What patients may be treated—Research work.**

Indigent persons may be admitted to Minnesota General Hospital even though they have relatives financially able to care for them. Op. Atty. Gen. (1001c), Mar. 25, 1935.

**4579. Officers to report case needing hospital care.**

Elements of "residence" suggested, and held that "legal residence" does not mean the same as "legal settlement" within the poor laws. Op. Atty. Gen., June 13, 1930.

Fee to physician for examining patient to be taken to general hospital cannot be reduced by county board. Op. Atty. Gen., July 6, 1933.

Residence entitling a person to be admitted to a university hospital from a particular county is not to be confused with legal settlement within poor laws and a person may be admitted to hospital from county in which person has just established his residence. Op. Atty. Gen., Jan. 9, 1934.

**4580. Transportation of patients to hospital—Payment by county.**

If patient is unable to travel alone and person who accompanies him is duly appointed by properly constituted authorities, county may pay such person statutory per diem compensation and other necessary expenses for any number of trips to the hospital. Op. Atty. Gen. (107b-8), Nov. 23, 1934.

"Actual and necessary expenses" does not include "estimated wear and tear on or depreciation to automobile arising from trip." Id.

In determining expenses of use of automobile in taking patient to Minnesota general hospital, county board may use 5c per mile as a reasonable basis for allowance, in view of §254-47. Id.

Board may transport patients by railway rather than by automobiles. Op. Atty. Gen. (1001c), Apr. 9, 1935.

A county operating under the town system of poor relief has no authority to pay expenses of indigent person sent to a hospital other than the Minnesota General Hospital, except those counties coming within provisions of Laws 1933, c. 393. Op. Atty. Gen. (1001d), Apr. 25, 1935.

County board has authority to pay reasonable cost of ambulance transportation where necessary. Op. Atty. Gen. (1001c), May 17, 1935.

It is mandatory duty of board of county commissioners of county of resident of patient to provide for payment of traveling expenses of patient, though county is under town system of poor relief. Id.

#### 4584. Expenses paid by counties.

County may not pay expenses of indigent patient sent to a hospital other than a university hospital, but §3164-16 authorizes certain counties to contract with certain hospitals for the care of indigent persons. Op. Atty. Gen. (1001d), July 12, 1934.

Expenses of patient staying at a private place while receiving treatment at university hospital may not be paid by county. Op. Atty. Gen. (124i), Dec. 11, 1934.

#### 4588. Counties may build and maintain hospitals.

For county aid to hospitals, see §683.

### STATE SOLDIERS WELFARE FUND

**4601. State soldiers welfare fund created.**—There is hereby created a state soldiers welfare fund to aid and assist any citizen of Minnesota who served in the military or naval forces of the United States, in securing compensation, hospitalization, medical treatment, insurance or other relief or benefits to which he may be entitled from the United States or any other government or state and for the emergency relief, hospitalization, treatment and maintenance of all such persons who were bona fide residents of the state at the time their need arose and their dependents as hereinafter provided. ('23, c. 436, §3; Apr. 24, 1929, c. 327, §1.)

**4602.** The said state soldiers welfare fund shall consist of all sums paid to or received by the state board of control under the provisions of this act and of any and all moneys and properties that may be appropriated, donated, given, bequeathed or devised to said state soldiers welfare fund or to the state board of control for the benefit of said fund. ('23, c. 436, §4; Apr. 24, 1929, c. 327.)

**4603.** The said state soldiers welfare fund shall be administered by the soldiers welfare director under the direction of the state board of control and shall be used to locate and investigate the facts as to any citizen of Minnesota who served in the military or navy forces of the United States and who is indigent or suffering from any disability whether acquired in such service or not; to assist any such person and his dependents as hereinafter provided in establishing and proving any just claim he may have against the United States government, or any other government or state for compensation, insurance, relief or other benefits and to provide emergency hospitalization, treatment, maintenance and relief for any such person suffering from disability who was a bona fide resident of the state at the time his need arose and his dependents as hereinafter provided, and to co-operate with other state, municipal and county officials and civic or civilian agencies or organizations in carrying out the provisions of this act.

Such fund is hereby appropriated to be used in such manner as the soldiers welfare director under direc-

tion of the state board of control may determine for such purposes. ('23, c. 436, §5; Apr. 24, 1929, c. 327.)

**4604.** The state board of control shall appoint a soldiers welfare director to have charge of its activities hereunder and is hereby empowered to employ such assistants and to incur such other expense as may be necessary for the administration of said state soldiers welfare fund and carrying out the provisions of this act; provided that no expense shall be incurred under the provisions of this act in excess of the moneys available in such state soldiers welfare fund. The soldiers welfare director may be appointed by the probate court, guardian of the person or estate or both of any former service man or woman for whom or for whose estate or for both the appointment of a guardian is found by the court to be necessary, and when so appointed and qualified may act as such. Any compensation received by him for so acting shall be paid into and become a part of the state soldiers welfare fund.

The duties and powers of the soldiers welfare agent, in addition to those otherwise provided, shall be to:

(a) Administer the state soldiers welfare fund under direction of the state board of control.

(b) Co-operate with all national, state, county, municipal and private social agencies in securing to former soldiers and their dependents the benefits provided by national, state and county laws, municipal ordinances or public and private social agencies.

(c) Establish and provide such assistance to a former soldier needing hospitalization but unable to accept hospitalization because the acceptance thereof would imperil his then employment, as would insure employment after hospitalization.

(d) Provide necessary assistance where other adequate aid is not available to the dependent family of a former soldier while such is being hospitalized and afterwards during such period as is necessary.

(e) Act as guardian for minors and incompetent persons receiving moneys from the United States government when no other suitable person will consent to act.

(f) Co-operate with United States government agencies providing compensation, pensions, insurance or other benefits provided by federal law, by supplementing the benefits prescribed therein, when exceptional conditions in an individual case make it necessary.

(g) Make and file with the state board of control a quarterly report showing in detail his activities for the preceding quarter, and file receipts for all expenditures during such term.

(h) Perform all the present duties of the soldiers welfare agent.

(i) He may also establish and provide such employment placement and advisement service for disabled veterans as cannot be furnished by co-operation with other free public employment agencies. ('23, c. 436, §6; '25, c. 88; Apr. 24, 1929, c. 327.)

## CHAPTER 25A

### Board of Visitors for State Institutions

4606 to 4609. [Repealed.]

Repealed Apr. 20, 1929, c. 268.

## CHAPTER 26

### Schools for the Deaf and the Blind

**4611. School for the deaf—Who may be admitted, expenses.**

The ordinary laws relating to poor relief have no application to the placing of a deaf girl in the State School for Deaf at Faribault, and the county of residence

and not the county of settlement is liable for the maintenance of the child. Op. Atty. Gen., Sept. 3, 1931.

Cost of emergency operation performed on deaf child in state school for deaf is chargeable to municipality in which child has his settlement for poor relief purposes. Op. Atty. Gen., Dec. 12, 1933.